

**REMARKS**

Entry of this amendment and reconsideration are respectively requested in view of the amendments to the claims and for the remarks made herein.

Claims 1-6 are pending and stand rejected.

Claims 2, 3, 5 and 6 would be allowable if rewritten in independent form including the base claim and any interleaving claims.

Claims 1, 4 and 6 have been amended.

Claims 2, 3, and 5 have been cancelled.

Applicant thanks the Examiner for the indication of allowable subject matter in claims 2, 3, 5 and 6, and has amended independent claim 1 to include the subject matter of dependent claims 2 and 3, now cancelled. Applicant has further amended independent claim 4 to include the subject matter of dependent claim 5, now cancelled.

For the amendments made to the claims, applicant submits that independent claims 1 and 4 are in a form consistent with the Examiner's indication of allowable subject matter

The drawings are objected to for containing informalities.

Applicant thanks the Examiner for his observation and has provided, herein, amended Figures 2, on 2/2 page, annotated as replacement sheets that corrects the mis-labeling noted. No new matter has been added.

Entry of the amended drawings is respectfully requested.

Claims 4-6 stand rejected under 35 USC 112, first paragraph and second paragraph as failing to comply with the enablement requirement. Claims 4-6 recite a single "means" for performing each of the claimed steps and the specification does not set forth any corresponding structure for performing those functions.

With regard to the "single means" recited in the claims, applicant would note that claims 4-6 refer to a processing means in communication with a memory that are well-known to those having knowledge of the technical field in which the subject matter.

It is established practice that "[t]he "enablement requirement is satisfied when one skilled in the art, after reading the specification, could practice the claimed invention without undue experimentation." See, for example, Sitrick v. Dreamworks LLC et. al (CAFC, 2008) quoting AK Steel Corp v. Sollac, 344 F.3d 1234, 1238-39) (Fed. Cir. 2003).

In this case, the use of a processing means in communication with a memory would be recognized by those skilled in the art to be one of a select number of conventional processing means that are common in the field of processing means. In addition, the processing means is referred to in the preamble of the claim and is not one of the recited elements of the claims. Thus, it is not the processing means that is the essences of the invention, but rather the specific processing steps that are recited as claim elements.

Accordingly, the use of processing means in communication with a memory is not an overly-broad recitation of the invention claimed.

As the Court in State Street v. Signature Financial Group (citation omitted)

held

"(...) the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces 'a useful, concrete and tangible result' -- a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades."

Accordingly, the use of a processing means in communication with a memory (i.e., a machine) is well-known in the art and has been upheld by the Court to be patentable subject matter as the use of the single processing means produces a "useful, concrete and tangible result," when the recited claims steps are executed.

For at least these reasons applicant submits that the reason for the rejection under 35 USC 112, first and second sections has been overcome.

Claims 1 and 4 stand rejected under 35 USC 103(a) as being unpatentable over Carman (USP no. 5, 365, 429) in view of Lee (USP no. 5, 694, 487).

Applicant respectfully disagrees with, and explicitly traverses the rejection of the claims. However, for the amendments made to the claims, which are believed to be in conformance with the Examiner's indication of allowable subject matter, applicant respectfully submits that the reason for the rejection is no longer applicable.

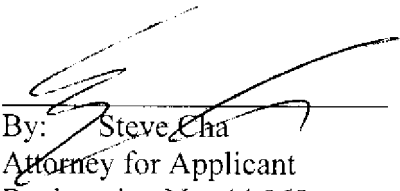
Applicant respectfully requests that the rejection be withdrawn.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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